

110TH CONGRESS
1ST SESSION

H. R. 1821

To amend the Internal Revenue Code of 1986 to modify the rules relating to clean energy renewable bonds.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2007

Mr. McDERMOTT (for himself and Mr. RAMSTAD) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to modify the rules relating to clean energy renewable bonds.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Clean Renewable En-
5 ergy for Public Power Act of 2007”.

6 **SEC. 2. MODIFICATIONS RELATING TO CLEAN RENEWABLE**
7 **ENERGY BONDS.**

8 (a) CLEAN RENEWABLE ENERGY BOND.—Paragraph
9 (1) of section 54(d) of the Internal Revenue Code of 1986
10 (defining clean renewable energy bond) is amended—

1 (1) in subparagraph (A) by striking “pursuant”
2 and all that follows through “subsection (f)(2)”,

3 (2) in subparagraph (B) by striking “95 per-
4 cent or more of the proceeds” and inserting “90 per-
5 cent or more of the net proceeds”, and

6 (3) in subparagraph (D) by striking “subsection
7 (h)” and inserting “subsection (g)”.

8 (b) QUALIFIED PROJECT.—Subparagraph (A) of sec-
9 tion 54(d)(2) of such Code (defining qualified project) is
10 amended to read as follows:

11 “(A) IN GENERAL.—The term ‘qualified
12 project’ means any qualified facility (as deter-
13 mined under section 45(d) without regard to
14 paragraphs (8) and (10) thereof and to any
15 placed in service requirement) owned by a
16 qualified borrower and also without regard to
17 the following—

18 “(i) in the case of a qualified facility
19 described in section 45(d)(9) (regarding in-
20 cremental hydropower production), any de-
21 termination of incremental hydropower
22 production and related calculations shall be
23 determined by the qualified borrower based
24 on a methodology that meets Federal En-

ergy Regulatory Commission standards;
and

“(ii) in the case of a qualified facility described in section 45(d)(9) (regarding non-hydropower production), the facility need not be licensed by the Federal Energy Regulation Commission if the facility, when constructed, will meet Federal Energy Regulatory Commission licensing requirements and other applicable environmental, licensing, and regulatory requirements.”.

(c) REIMBURSEMENT.—Subparagraph (C) of section 54(d)(2) of such Code (relating to reimbursement) is amended to read as follows:

“(C) REIMBURSEMENT.—For purposes of paragraph (1)(B), proceeds of a clean renewable energy bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section in the same manner as proceeds of State and local government obligations the interest upon which is exempt from tax under section 103.”.

1 (d) CHANGE IN USE.—Subparagraph (D) of section
 2 54(d)(2) of such Code (relating to treatment of changes
 3 in use) is amended by striking “or qualified issuer”.

4 (e) MAXIMUM TERM.—Paragraph (2) of section
 5 54(e) of such Code (relating to maximum term) is amend-
 6 ed by striking “without regard to the requirements of sub-
 7 section (1)(6) and”.

8 (f) REPEAL OF LIMITATION ON AMOUNT OF BONDS
 9 DESIGNATED.—Section 54 of such Code is amended by
 10 striking subsection (f) (relating to repeal of limitation on
 11 amount of bonds designated).

12 (g) SPECIAL RULES RELATING TO EXPENDI-
 13 TURES.—Subsection (h) of section 54 of such Code (relat-
 14 ing to special rules relating to expenditures) is amended—

15 (1) in paragraph (1)(A) by striking “95 percent
 16 of the proceeds” and inserting “90 percent of the
 17 net proceeds”,

18 (2) in paragraph (1)(B)—

19 (A) by striking “10 percent of the pro-
 20 ceeds” and inserting “5 percent of the net pro-
 21 ceeds”, and

22 (B) by striking “the 6-month period begin-
 23 ning on” both places it appears and inserting
 24 “1 year of”, and

1 (3) in paragraph (1)(C) by inserting “net” be-
2 fore “proceeds”,

3 (4) in paragraph (3) by striking “95 percent of
4 the proceeds” and inserting “90 percent of the net
5 proceeds”.

6 (h) REPEAL OF SPECIAL RULES RELATING TO ARBI-
7 TRAGE.—Section 54 of such Code is amended by striking
8 subsection (i) (relating to repeal of special rules relating
9 to arbitration).

10 (i) PUBLIC POWER ENTITY.—Subsection (j) of sec-
11 tion 54 of such Code (defining Cooperative electric com-
12 pany; qualified energy tax credit bond lender; govern-
13 mental body; qualified borrower) is amended—

14 (1) by redesignating paragraphs (4) and (5) as
15 paragraph (5) and (6) and by inserting after para-
16 graph (3) the following new paragraph:

17 “(4) PUBLIC POWER ENTITY.—The term ‘public
18 power entity’ means a State utility with a service ob-
19 ligation, as such terms are defined in section 217 of
20 the Federal Power Act (as in effect on the date of
21 enactment of this paragraph).”,

22 (2) in paragraph (5), as so redesignated, by
23 striking “or” at the end of subparagraph (B), by
24 striking the period at the end of subparagraph (C)

1 and inserting “, or”, and by adding at the end the
2 following:

3 “(D) a public power entity.”, and

4 (3) in paragraph (6), as so redesignated, by
5 striking “or” at the end of subparagraph (A), by
6 striking the period at the end of subparagraph (B)
7 and inserting “, or”, and by adding at the end the
8 following:

9 “(C) a public power entity.”.

10 (j) REPEAL OF RATABLE PRINCIPAL AMORTIZATION
11 REQUIREMENT.—Subsection (l) of section 54 of such
12 Code (relating to other definitions and special rules) is
13 amended by striking paragraph (5) and redesignating
14 paragraph (6) as paragraph (5).

15 (k) NET PROCEEDS.—Subsection (i) of section 54 of
16 such Code (relating to other definitions and special rules),
17 as amended by subsection (j), is amended by redesignating
18 paragraphs (2), (3), (4), and (5) as paragraphs (4), (5),
19 (6), and (7), respectively, and by inserting after paragraph
20 (1) the following new paragraphs:

21 “(2) NET PROCEEDS.—The term ‘net proceeds’
22 means, with respect to an issue, the proceeds of such
23 issue reduced by amounts in a reasonably required
24 reserve or replacement fund.

1 “(3) LIMITATION ON AMOUNT IN RESERVE OR
2 REPLACEMENT FUND WHICH MAY BE FINANCED BY
3 ISSUE.—A bond issued as part of an issue shall not
4 be treated as a clean renewable energy bond if the
5 amount of the proceeds from the sale of such issue
6 which is part of any reserve or replacement fund ex-
7 ceeds 10 percent of the proceeds of the issue (or
8 such higher amount which the issuer establishes is
9 necessary to the satisfaction of the Secretary).”.

10 (l) OTHER SPECIAL RULES.—Subsection (i) of sec-
11 tion 54 of such Code ((relating to other definitions and
12 special rules), as amended by subsections (j) and (k)) is
13 amended by adding at the end the following new para-
14 graphs:

15 “(8) CREDITS MAY BE SEPARATED.—There
16 may be a separation (including at issuance) of the
17 ownership of a clean renewable energy bond and the
18 entitlement to the credit under this section with re-
19 spect to such bond. In case of any such separation,
20 the credit under this section shall be allowed to the
21 person who on the credit allowance date holds the
22 instrument evidencing the entitlement to the credit
23 and not to the holder of the bond.

24 “(9) TREATMENT FOR ESTIMATED TAX PUR-
25 POSES.—Solely for the purposes of sections 6654

1 and 6655, the credit allowed by this section to a tax-
 2 payer by reason of holding a qualified energy tax
 3 credit bond on a credit allowance date (or the credit
 4 in the case of a separation as provided in paragraph
 5 (8)) shall be treated as if it were a payment of esti-
 6 mated tax made by the taxpayer on such date.

7 “(10) CARRYBACK AND CARRYFORWARD OF UN-
 8 USED CREDITS.—If the sum of the credit exceeds
 9 the limitation imposed by subsection (c) for any tax-
 10 able year, any credits may be applied in a manner
 11 similar to the rules set forth in section 39.”.

12 (m) TERMINATION.—Subsection (m) of section 54 of
 13 such Code (relating to termination) is amended by striking
 14 “2008” and inserting “2013”.

15 (n) CLERICAL REDESIGNATIONS.—Section 54 of such
 16 Code, as amended by the preceding provisions of this sec-
 17 tion, is amended by redesignating subsections (g), (h), (j),
 18 (k), (l), and (m) as subsections (f), (g), (h), (i), (j), and
 19 (k), respectively.

20 (o) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to obligations issued after the date
 22 of the enactment of this Act.

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